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International Convention on
the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States parties due in 1996

Addendum

Luxembourg*

[6 August 1996]

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* This report is the ninth periodic report of Luxembourg due on 1 June 1995.

For the eighth periodic report and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/236/Add.1 and CERD/C/SR.1051. The information submitted by Luxembourg in accordance with the consolidated guidelines for the initial part of the report of States parties is contained in the core document HRI/CORE/1/Add.10.

I. BACKGROUND

A. Nationalities of persons living in Luxembourg

1. The nationalities of persons living in Luxembourg are set out in the table below (source: Répertoire général, 4 March 1996):

Persons identified	428 101	
Luxemburgers	274 862	64.2 per cent
Aliens	153 111	35.8 per cent
Nationality not reported	128	
European Union (EU) aliens	133 309	31.1 per cent
Germans	10 488	
Austrians	459	
Belgians	12 796	
British	4 486	
Danes	1 947	
Spaniards	3 004	
Finns	456	
French	17 057	
Greeks	1 220	
Irish	896	
Italians	20 135	
Netherlanders	4 120	
Portuguese	55 538	
Swedes	747	
Non-EU aliens	19 802	4.7 per cent
including nationalities with more than 100 persons (over 17,000 persons in all):		
Bulgarians	189	
Bosnians	1 155	
Brazilians	339	
Canadians	208	
Swiss	579	
Cape Verdeans	1 500	
Dominicans	318	
Algerians	115	
Overseas British	185	
Hungarians	287	
Croatians	256	
Indians	238	
Iranians	436	
Icelanders	356	
Japanese	470	
South Koreans	127	
Moroccans	288	
Macedonians	107	
Norwegians	245	
Filipinos	256	

Poles	717
Romanians	336
Russians	508
Thais	142
Chinese	738
Tunisians	117
Turks	233
Americans	1 696
Yugoslavs	4 911
Zairians	103

2. In Luxembourg, aliens account for more than 35.8 per cent of the resident population. Nationals of the European Union account for 87 per cent of aliens and 31.1 per cent of the population, while aliens from non-EU countries account for 4.7 per cent of the population and 13 per cent of all aliens.

3. This situation is unique in Europe. The Government of Luxembourg is committed to a determined policy of integration and action to combat racism and xenophobia.

4. In the section on aliens in his Government statement of 22 July 1994, Mr. Jacques Santer, Prime Minister of the Grand Duchy of Luxembourg, said that action to combat xenophobia and racism would be a constant concern of his Government.

B. Integration: a positive means of preventing discrimination

5. The policy of integration is the touchstone of the Luxembourg Government's policy towards its foreign population. In a country like Luxembourg, where more than one third of the residents are not nationals, a purely legal approach to the problems of a multicultural society would be of little use. In addition to the legal instruments banning discrimination and the provisions for obtaining Luxembourg nationality, conditions of access to which have been gradually eased in recent years, the Luxembourg authorities have adopted a wide range of measures to encourage the integration of aliens into Luxembourg society.

6. This policy is reflected in the adoption of a framework act on the integration of aliens in Luxembourg, which was promulgated on 27 July 1993 as the institutional result of a large number of measures taken on behalf of aliens and covering housing, employment, education, information, the specific rights of a convicted person of foreign origin sentenced to imprisonment, social rights, the right to freedom of association, political rights and the right to participate actively and passively in European, municipal and trades association elections.

7. These measures were not all taken for the sole purpose of preventing racial discrimination. In so far as the Grand Duchy has not experienced major unemployment, the marginalization of whole strata of immigrants in a context of urban crisis, the riots this crisis has caused or the outbreaks of racism and xenophobia which have occurred in other European countries, the motivations of the Luxembourg authorities are less "negative". They are,

rather, directed at the broader and more forward-looking prospect of the integration of aliens in the economy and the social welfare system, as well as in society in general and in a system of political and social dialogue that has been tried and tested.

8. The economic, social and in part political integration of aliens is regarded as being conducive to stability and peace in society. This policy has never been called in question by decision makers or by public opinion. Only the different voting rights in communal and European Parliament elections and the access of EU aliens to elective office - issues which relate to the implementation of the Treaty on European Union signed at Maastricht and to the exercise and symbolism of sovereignty - have given rise to major public debate. The outcome of the debate on these voting rights has since been decided in a positive way by the lawmakers. Articles 9 and 107 of the Constitution have been amended and the vote on amendments to the electoral legislation was taken on the basis of a broad consensus.

9. The Maastricht Treaty and the political rights flowing from it for EU nationals have established a new context. The experience of the participation of aliens in the most recent elections to the European Parliament in June 1994 and in elections to trades associations has meant that the right to vote as a result of European citizenship, to which at least 45,000 of the aliens living in Luxembourg are entitled, and the right to vote of all members of a trades association, including non-residents, is regarded as very positive.

C. Integration and immigration

10. Integration is the watchword of Government policy towards aliens, who now account for one third of the population, more than half of its wage earners and over 40 per cent of the school population. In such a situation, immigration policy must take several factors into consideration:

(a) The Government's aim is to protect the jobs of persons already in the labour market and to fight unemployment, which is low, but can always increase;

(b) Free access to the labour market by EU nationals is guaranteed;

(c) Social rights, which, together with full employment, are the starting point for integration and the centre of gravity of labour peace in Luxembourg should continue to be guaranteed to Luxemburgers, as well as to all aliens working in Luxembourg;

(d) All aliens must be recruited according to criteria defined by law because, otherwise, such rights cannot be guaranteed;

(e) Clandestine immigration and concealed employment must therefore be combated;

(f) Immigration in the sense of access to the labour market by the nationals of third countries is based primarily on the economic needs of the country and enterprises;

(g) Immigration in the sense of Luxembourg being chosen as host country by the nationals of third countries is based primarily on political and humanitarian considerations.

11. It is clear that Luxembourg attaches great importance to lawfulness in employment. Since the relative decline in full employment, clandestine immigration and concealed employment are regarded even more as potential factors of destabilization of this complex system of social and political rights which contributes to balance and understanding between Luxemburgers and immigrants.

D. The main expressions of violence and of organized and non-organized racial/ethnic, anti-Semitic or xenophobic harassment

12. A number of racist or anti-Semitic demonstrations or incidents took place in 1994. The Jewish cemetery in Esch-sur-Alzette, the country's second largest town, was desecrated twice. Racist tracts aimed at residents from Africa were distributed in several places in Luxembourg and, in particular, in front of schools. These two events caused quite a stir among public opinion. It should nevertheless be pointed out that this type of incident did not occur again in 1995 or the first two quarters of 1996.

13. Shortly after the Government statement of 22 July 1994, the anti-racist vigilance of the Luxembourg authorities was put to the test when several hundred Nazis from Germany, the Netherlands, France and Belgium entered the country on 13 August 1994. Their attempt to converge on the German Embassy to commemorate the death of Rudolph Hess was repelled by the Luxembourg police, which took in and booked more than 100 persons.

14. The authorities' determination was unanimously approved by Luxemburgers and by aliens in Luxembourg. Radio broadcasts, which are also intended for Romance language-speaking aliens, expressed immigrants' relief at being protected against xenophobic violence by the Luxembourg authorities.

15. It should also be pointed out that racist or Nazi graffiti can be seen in some public places, on buses and on the walls of some buildings, but they have become much less common since 1995.

16. The distribution of signed xenophobic propaganda in Luxembourg has also become less common. In the early 1980s, it was to be found especially in the pamphlets and circulars published by the extreme right movement "Nationalbewegong" (NB). This group obtained less than 3 per cent of the votes in the June 1994 legislative elections and dissolved itself in winter 1995. The main targets of its propaganda were the many Portuguese living and working in Luxembourg and the war refugees from the former Yugoslavia. Since August 1994, however, no xenophobic pamphlets have been in the news.

E. Statistics of racist offences

17. In 1994, the gendarmerie and the police booked 4 persons for racist and xenophobic acts, in addition to the 138 persons booked during the demonstration of neo-Nazis from Germany, France, Belgium and the Netherlands.

18. Four persons were booked in 1995.

II. ANTI-RACIST AND ANTI-DISCRIMINATION LEGISLATION

A. Legislative measures taken by the Government of Luxembourg as a result of the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination

19. The ratification of the International Convention on the Elimination of All Forms of Racial Discrimination was followed by specific legislative measures to give effect to it in national legislation.

20. Two new articles, articles 454 and 455, were included in the Penal Code in 1980 to punish various types of racist practices.

21. Article 454 punishes:

(a) The denial of a service to a person or a community on racial grounds;

(b) The discriminatory provision of a service to a person or a community;

(c) Advertising the intention of committing the above-mentioned acts of discrimination.

22. Article 455 punishes:

(a) Incitement to discriminatory acts or racial hatred or violence;

(b) Membership of an organization which practises incitement to discriminatory acts or racial hatred or violence.

23. As a result of a suggestion by the Council of State that was accepted, article 456, which deprives persons sentenced under articles 454 and 455 of their civic rights, was added to the anti-racist provisions in 1993. The further strengthening of the Penal Code is also planned. A bill along those lines, which will be discussed below, was submitted on 15 July 1995.

B. Possibilities for individual remedies based on the United Nations Convention on the Elimination of All Forms of Racial Discrimination

24. Any person who considers himself to have been wronged by an act of racial discrimination as provided for in the above-mentioned articles 454 and 455 of the Penal Code or by any other acts classified as an offence in the Penal Code (deliberate striking and wounding, injurious behaviour, defamation, etc.) may file a complaint or bring criminal indemnification proceedings before the Luxembourg courts, provided that the act was committed in national territory.

25. An individual remedy brought before a Luxembourg court may not be based exclusively on this Convention.

C. Main criticisms of anti-racism legislation:

1. Criticism by the United Nations Committee on the Elimination of Racial Discrimination

26. In their analysis of Luxembourg legislation in the light of the requirements of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, some of the members of the Committee who deal with this question pointed out to the representatives of Luxembourg that legislation in their country did not prohibit all racist acts and organizations, as required by article 4 of the Convention.

27. The press release distributed by the United Nations Information Service on 8 August 1994 concerning the eighth report of Luxembourg to the Committee on the Elimination of Racial Discrimination states that the report sets out a clear-cut policy with regard to racist and xenophobic movements. However, this policy has not yet found full expression in the laws of the country. The Constitution contains no provisions condemning and prohibiting racial discrimination. The Penal Code does not punish the dissemination of ideas based on racial superiority or racial hatred or incitement to discrimination in the broadest sense of the term and, in particular, does not prohibit racist organizations or racial propaganda activities. The laws of Luxembourg do not comply fully with the provisions of article 4 of the Convention, which are binding.

28. During the consideration of the report, the representatives of Luxembourg did, however, point out that the provisions of chapter 2 of the Act of 27 July 1993 on the integration of aliens entitled "Measures to strengthen action against all forms of racial, ethnic or religious discrimination" expressly prohibit and punish racial discrimination.

29. Article 454 of the Penal Code punishes the denial of a service to a person or a community on racial grounds, the discriminatory provision of a service to a person or a community and advertising the intention of committing the above-mentioned acts of discrimination. Article 455 punishes incitement to discriminatory acts or racial hatred or violence and membership of an organization practising incitement to discriminatory acts or racial hatred or violence.

30. It is true that the Penal Code does not penalize racist violence and assault as such. Violence and assault are covered by ordinary criminal legislation.

31. Membership of a racist or xenophobic organization is punishable, but the organization itself is not a priori prohibited, as article 4 of the Convention requires. It is therefore legally possible for a racist organization to exist as long as there has been no conviction for racist acts. However, if it infringes anti-discrimination legislation, its members may all be brought to court and will all be regarded as responsible for the unlawful acts of their organization.

32. Article 18 of the Non-Profit Associations Act of 4 March 1994 states the grounds on which a civil court may disband an association. An association which commits a serious violation of the law or public order may be disbanded at the request of the Government Procurator's Department or a concerned third party. Such a measure may be considered for the racist organizations referred to in article 4 of the Convention, with which the Luxembourg Government considers that Luxembourg legislation complies.

33. The prison sentences provided for by articles 454 and 455 of the Penal Code have been strengthened by the new article 456 introduced by article 4 of the Act of 27 July 1993 on the integration of aliens in the Grand Duchy of Luxembourg and social welfare on behalf of aliens, which deprives persons convicted of the racist offences provided for in the Penal Code of their civic rights for between 5 and 10 years.

D. Amendments under consideration

34. In section 1.20 of his Government statement of 22 July 1994, the Prime Minister, Mr. Jacques Santer, said that, in view of the renewed outbreak of racism and xenophobia, existing legislation should be amended and, if necessary, supplemented in order to create appropriate legal means of dealing firmly with the racist and xenophobic acts which are so damaging to efforts to integrate the non-Luxembourg population.

35. In July 1994, the Minister of Justice set up a working group in the Legislative Studies Commission for the amendment of the Penal Code, a subgroup of which was mandated to give priority to problems relating to racism and xenophobia with a view to preparing amendments to statutes and regulations.

36. A bill supplementing the Penal Code by making racism, revisionism and other types of unlawful discrimination punishable was submitted by the Government on 25 July 1995. Its main purpose is to supplement article 444 of the Penal Code by introducing harsher penalty for slander and defamation when the charges are based on unlawful discrimination. It is also designed to punish failure to respect the dead, the violation or desecration of tombs, graves or monuments to the memory of the dead and to increase the penalty if the act was accompanied by failure to respect the dead.

37. Article 454 defines and lists the grounds for discrimination. Any distinction based on the following grounds is discrimination: origin; sex; family situation; state of health; disability; morals; political opinion; trade union activities; actual or alleged membership or non-membership, by natural persons or some or all members of these legal entities, groups or communities of an ethnic group, nation, race or religion.

38. Article 456 provides for particularly harsh sentences where unlawful discrimination is practised by a Government authority or a person entrusted with public service duties in the exercise of their functions.

39. Article 457-1 punishes any form of incitement to hatred or racial violence. It also punishes the fact of belonging to an organization

which engages in incitement to hatred or racial violence, as well as the manufacture, possession, transport and dissemination in Luxembourg and abroad of material designed to incite racial hatred.

40. An innovation by the Government is article 457-3, which punishes the questioning, minimization or justification of crimes against humanity and war crimes, as defined in article 6 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945, and genocide, as defined in the Luxembourg Act of 8 August 1985.

III. INTEGRATION BY EXAMPLE

A. Integration of Aliens Act of 27 July 1993 and its implementation

41. The Act of 27 July 1993 contains:

(a) A criminal section which prohibits any racial, ethnic or religious discrimination involving an individual or a community and increases the penalties handed down following a conviction for racist offences by deprivation of civic rights for 5 to 10 years;

(b) A social section which, in addition to conditions and terms of reception, training, information and psychosocial counselling, governs the approval and financing of temporary accommodation infrastructures, such as hostels and reception centres;

(c) An institutional section establishing a network of decision-making, advisory and coordination structures which involves the Government through the Inter-ministerial Committee for the Coordination of Policy on Aliens and the Government's Aliens' Board, the communes through the communal Consultative Commissions for Aliens and society in general, in conjunction with the Government, through the National Aliens' Council.

42. The Government's Aliens' Board is the intermediate body for coordination and dialogue within this institutional framework. Its activities relate to: reception and accommodation of non-nationals; chairmanship of the Inter-ministerial Committee; chairmanship and coordination of the work of the National Aliens' Council, dialogue between the communal Consultative Commissions for Aliens and the Organization of National Conferences for Aliens; broad-based consultation and cooperation with aliens' associations and organizations whose main work is on behalf of aliens; and exchanges and dialogue with international and national authorities.

43. The institutional section of the Act of 27 July 1993 has created means for dialogue, proposals and implementation in which foreign nationals of the European Union and third countries are included in a social dialogue that has made a broad contribution to labour peace in Luxembourg.

44. The National Aliens' Council was elected in July 1995 and officially established on 18 September 1995. It was consulted by the lawmakers as part of the procedure for the adoption of the bill on conditions and terms for the participation of non-Luxembourg EU nationals in municipal elections and the bill on the procedure for consideration of applications for asylum. In less

than 10 months, it has held 13 plenary meetings, in addition to many meetings of its bureau and subsidiary bodies, i.e. the ad hoc standing Committees and the ad hoc sections.

45. In May 1996, three ad hoc standing Committees (CSP) were set up under article 24 of the Integration of Aliens Act: one for persons who cross the border of Luxembourg to work there each day; one for the communal Consultative Commissions for Aliens; and one against racial discrimination. These CSP include both members of the National Aliens' Council and other persons selected for their competence or because they are representative of the sector concerned.

46. The task of the ad hoc standing Committee against racial discrimination will be to draft opinions and proposals on action to combat all forms of racial discrimination, either at the request of the Government or the National Aliens' Council or on its own initiative, and to formulate projects and programmes, particularly in respect of education, cultural and social activities and the training of public officials, with a view to fostering mutual understanding among the various communities living in Luxembourg.

47. On 2 March 1996, the second national Conference for Aliens on the question of integration and participation was organized by the Government's Aliens' Board in cooperation with CLAE (Liaison Committee for Aliens' Associations) and was attended by more than 600 persons from the structures concerned who were appointed by their associations. They discussed the new right to vote in communal elections, how to encourage people to register to vote, factors of integration, particularly language learning, teaching in schools and the use of the Luxembourg language, and the operation of the communal Consultative Commissions as a result of the right of non-national residents who are European Union nationals to vote in communal elections. The Conference stressed the need to enhance the importance of the role of the communal Consultative Commissions for Aliens.

48. The Government has given the National Aliens' Council the task of evaluating the results of the Conference and formulating suggestions and proposals based on them.

49. In 1993, the Government signed a cooperation agreement with CLAE to ensure the success of the cultural dialogue, exchanges among associations, the preparation of trainers in the aliens' associations and, in general, of all persons concerned as a result of the new voting rights.

B. Right to vote, freedom of association and access to public service of aliens in Luxembourg

1. National elections

50. In chapter IV of the Constitution on "the Chamber of Deputies", article 52 states: "To qualify as an elector, it shall be necessary: 1. To be a Luxemburger". The same rule holds for the passive right to vote.

2. European elections

51. As a result of the Maastricht Treaty, which provides for the right of foreign nationals of the European Union residing in a member State to vote and to be elected in municipal and European elections, Luxembourg began by introducing the right to vote in the European elections in June 1994.

52. The Act of 28 January 1994 amends the electoral law and determines new arrangements for the election of the representatives of the Grand Duchy of Luxembourg. Conditions for the participation of foreign voters are as follows:

"Article 1 (1): In order to vote, a person must:

1. Be a Luxemburger or the national of another State of the European Union;

3. Be in possession of his civil rights and not have been deprived of his political rights in the member State of residence or in the State of origin;

4. (...) for the nationals of another State of the European Union, be domiciled in the Grand Duchy of Luxembourg and have resided there at the time of the application to register on the electoral rolls (...) for at least five of the last six years; however, Community electors who, because of their residence outside their member State of origin or the length of their residence, do not have the right to vote there shall not be denied the right to vote on account of the requirement relating to the length of residence."

53. Article 98 of the same Act states that, to be eligible for election, a national of another State of the European Union must meet the same requirements as to nationality and possession of civic rights as to be a voter, but the length of residence is longer: at least 10 years of residence during the last 12 years.

54. Luxembourg has adopted these somewhat more restrictive provisions as a result of exceptions allowed by Community decisions.

55. It should be added that Luxembourg had no need to amend its Constitution in order to incorporate the right to vote in European elections into its national legislation, since the European Parliament is an institution which is not one of the Luxembourg Government bodies listed in and defined by the Constitution.

3. Communal elections

56. The principle of the right to vote in municipal elections for nationals of the States of the European Union residing in Luxembourg has been in effect since the signing of the Maastricht Treaty.

57. In its conclusions, the Essen European Council (9 and 10 December 1994) welcomed "the political agreement on the detailed arrangements concerning the

right to vote and to stand for municipal elections" and the General Affairs Council meeting held in Brussels on 19 December 1994 adopted the relevant Directive.

58. The Council took account of the specific problems of Luxembourg. It considered that a proportion of 20 per cent of citizens of the Union who live in a country of the Union without having its nationality and who are of voting age warrants exceptions based on the criterion of length of residence.

59. Article 12 (1) of the Directive provides that the right of citizens of the Union to vote in Luxembourg's municipal elections is linked to a length of residence equal to one term of office of the Municipal Council, i.e. six years. The right to stand as candidate is linked to a length of residence of two terms, i.e. 12 years.

60. With regard to the composition of lists of candidates, the Council recalled that "citizenship of the Union is intended to enable citizens of the Union to integrate better in their host country" and that the intention of the authors of the Maastricht Treaty was "to avoid any polarization between lists of national and non-national candidates". Article 12 (1) of the Directive thus enabled Luxembourg to take steps to prevent the lists composed mainly of non-nationals.

61. The Council of 19 December 1994 also legislated on whether a non-national could serve as mayor or alderman. Considering that appointment to the duties of mayor and alderman "may involve taking part in the exercise of official authority and in the safeguarding of the general interest", the Council provides in article 5 (3) of the Directive that a member State may determine that only its own nationals may hold the office of "member of the governing college of the executive of a basic local government unit".

62. Before the Directive adopted by the Council on 19 December 1994 was incorporated into Luxembourg law, articles 9 and 107 of the Constitution were amended by the Act of 23 December 1994. Incorporation itself took place by the Act of 28 December 1995 establishing the arrangements for the participation of citizens of the European Union who do not hold Luxembourg nationality in communal elections.

4. Trades association elections

63. Trades associations in Luxembourg (agriculture, craftsmen, trade, private sector employees, labour, public officials and employees) operate on the basis of elections. They play an important proposal and consultation role in decision-making processes relating to any matters involving the interests of Luxembourg nationals.

64. The Act of 3 July 1995 amending the above-mentioned texts provides that all members of such associations have an active and a passive right to vote, without distinction as to nationality or residence (non-residents who cross

the border of Luxembourg to work, for example, have the right to vote). This right to vote is an important step in the integration of all aliens into the machinery for social dialogue.

5. Information and elections

65. In order for aliens to be able to enjoy all their rights in so far as they are equivalent to those of Luxemburgers and in order to implement specific measures relating to accommodation, education and social and political representation, information is essential. An example is the preparation of aliens for trades association and European elections.

66. For elections to trades associations, the most representative trade unions all had aliens on their lists of candidates and their propaganda was drafted in German, French, Italian and Portuguese.

67. For European elections:

(a) The conditions to be met (supporting documents etc.), to register on the electoral rolls were published in all newspapers;

(b) All interested or potentially interested persons received a six-language information leaflet published by the Ministry of the Interior;

(c) The Ministry of the Interior called a meeting of the heads of all communal administrations to instruct them on the steps to be taken and the need for special evening and Saturday working hours during the registration period;

(d) Advertising campaigns to encourage registration on the electoral rolls were organized both by the Government and by alien support associations and political parties.

68. Of approximately 45,000 persons who met the registration requirements, 6,907 had their names placed on the electoral rolls during the 28-day registration period. Fifteen per cent as a first try may seem few, but there is no reason to be too pessimistic. People who vote in European elections already show some interest in political matters. Both politicians and those who are promoting integration believe that communal elections will be a bigger attraction and that the new communal right to vote will lead to an increase in the number of aliens registered on the electoral rolls. By their very nature, the communes are the first agencies with which aliens have to deal.

69. Since the communal right to vote will be exercised in 1999, the Government has once again undertaken to distribute an information leaflet in several languages to all interested households. It has also undertaken to make recommendations to the communes to request them to provide the documents required for registration on the electoral rolls free of charge, to collect the residence certificates which attest to the length of residence and to extend working hours for a given period.

6. Aliens in the public service

70. Nationality is a condition for access to a public service post both in sectors involving the exercise of sovereignty (ministries, judiciary, police and armed forces) and in sectors such as research, education, public transport, postal services and telecommunications and water, electricity and gas services.

71. A dispute has arisen between the Commission of the European Community and the Luxembourg authorities as to whether the nationality condition may also be required when nationals of another European Union country apply for a post in public service sectors other than those involving the exercise of sovereignty. The Commission of the European Community has instituted proceedings against the Luxembourg authorities in the European Court of Justice for a violation of article 48 of the Treaty on European Union on freedom of movement for workers.

72. On 2 July 1996, the Court of Justice handed down a decision which concluded that, by not restricting the requirement of Luxembourg nationality to access to public official and public employee posts involving direct or indirect participation in the exercise of authority and in the duties of protecting the general interests of the State and other government bodies in the public sectors of research, education, health, land transport, posts and telecommunications and water, gas and electricity services, the Grand Duchy of Luxembourg has failed to comply with its obligations under article 48 of the Treaty on European Union and article 1 of (EEC) Council regulation No. 1612/68 of 15 October 1968 on freedom of movement for workers within the Community.

73. Luxembourg will comply with the decision of the European Court of Justice in this case.

7. Company and associations law

74. Article 26 of the Act of 21 April 1928 on non-profit-making associations and State-approved institutions contained a specific rule on non-profit-making associations providing that, where three fifths of the members were not of Luxembourg nationality, an association would not be able to claim legal personality vis-à-vis third parties unless the Government granted an exemption with the approval of the Council of State. The Act of 4 March 1994 repealed this provision, which had come to be regarded as discriminatory.

75. Since the amendment in March 1994 of the non-profit-making associations Act, there are no longer any restrictions on the exercise by aliens of any nationality of their fundamental rights to freedom of association and to express their opinions in the context of existing laws.

C. Specific measures

1. Education

76. More than 40 per cent of the school age population is composed of children and young people of foreign origin. The languages used (Luxembourg as the language of oral communication, French and German for written

communication) and the traditional methods of teaching reading and writing (German as the basis for learning to write) are a real challenge for many young foreigners.

(a) Pre-school and primary education

77. The authorities have reacted by adopting general measures as the basis of primary education. The normal number of pupils per class in primary education may be reduced if the pupils' educational profile or the social context require special conditions to facilitate teaching.

78. In the context of a set of 40 measures recommended by the Ministry of National Education to improve the integration of foreign pupils, attention is drawn to 4 aspects in particular:

1. The Luxembourg language will be taught to all children starting in the two years of pre-school education, which are now compulsory;

2. In order to cope with the difficulties foreign pupils have in learning German, the school authorities have also arranged for the possibility of internal differentiation and made suitable materials available to teachers;

3. Foreign children who have not attended pre-school or who arrive during the primary cycle often encounter major difficulties as a result of Luxembourg's complex linguistic system. External differentiation in admission classes is often the only valid solution, even if it is not entirely satisfactory;

4. Integrated courses in their mother tongue (with some subjects taught in Portuguese or Italian) have been established for foreign children. Such classes are set up where there are enough pupils and when parents who have already been duly informed about such possibilities have expressly requested them.

(b) Post-primary education

79. Secondary technical education. Secondary technical education is the kind of post-primary education with the largest percentage of foreign pupils. Many measures have been taken to guarantee high-quality education that is suited to the specific linguistic problems of young foreigners.

80. In the lower three-year cycle, there are different types of classes which all have a specific linguistic system that is suited to the pupils' problems;

(a) French as the language of instruction. All instruction is in French, except for German, which is taught as a foreign language four hours a week to pupils who already have some knowledge of German;

(b) Intensive German classes. German is taught 12 hours a week to young people who have no knowledge of German. The other subjects are taught

in French. At the end of the lower cycle, they will have learned the entire subject from the syllabus like the classes operating on the basis of a "normal" language system;

(c) Intensive French classes. For pupils from central and eastern European countries with no knowledge of French, a system similar to the intensive German classes has been introduced.

81. The middle technical education cycle in Luxembourg has three streams: vocational and technician's streams and the stream leading to the baccalaureate and including commercial, paramedical and general technical training. The language set-up for these cycles has been trimmed down as follows:

(a) A system of compensations has made language subjects less important in moving on from one year to the next;

(b) Only one language is compulsory for the vocational stream;

(c) Only two languages are compulsory for the technician's stream;

(d) Three languages are taught in the general technical stream and in commercial and paramedical training, but only two languages are taken into account for moving on to the next year or are compulsory in the technical baccalaureate examinations.

Bilingual textbooks are being introduced for civics and geography courses.

82. Secondary classical education. This is a preparatory curriculum for university. The system of compensations has been introduced generally, but is used to balance the relationship between scientific, mathematical, economic and literary subjects in terms of the section selected. It therefore does not relate to the students' specific language problems. Because there has not been enough demand, it has not yet been possible to implement the proposal for instruction in Portuguese in secondary classical education.

(c) Combating prejudices and encouraging tolerance

83. Whether in the context of language teaching or lay or religious ethics, syllabuses and textbooks contain a large number of teaching modules and texts which deal with the problems of discrimination, racism and xenophobia, with a view to encouraging tolerance. There are also projects such as teaching workshops, learning modules, exhibits, school newspapers and lectures which deal with the subject.

(d) Adult training

84. The Luxembourg Language Centre (CLL) has been set up for adult language training. One of its tasks is to provide language instruction to facilitate the economic, social and cultural integration of aliens through intensive daytime and evening classes.

85. Following the upheavals in central and eastern Europe, Luxembourg has, inter alia, been confronted with the influx of large numbers of young people aged 12 and over who have arrived to join their parents and may or may not be of compulsory school age and who attended primary school in third countries in a language set-up which is neither French-speaking nor German-speaking. The CLL has set up remedial classes to deal with the problems of linguistic and social integration these young people face. The purpose of these classes is to provide one year of instruction based on one of the languages commonly used in Luxembourg so as to create the minimum conditions for the integration of these young people. The CLL model has served as a basis for experiments in other educational establishments.

86. At least 34 Luxembourg language courses have been organized by communes for adult aliens in their territory.

2. Housing

87. Special measures on housing are contained in the Act of 27 July 1993 and relate particularly to hostels, reception centres and collective housing for foreign workers whose safety, health and physical and moral integrity they guarantee.

88. It should be pointed out that the reception structures were designed to be temporary and that they are in no way a lasting solution for the accommodation of foreign workers and refugees.

89. In view of the housing crisis, Luxembourg launched a far-reaching plan in 1991 to have low-cost housing built by various bodies which deal with housing applications regardless of the origin, and taking account only of the social situation of, the applicants. Persons lodged in one of the reception structures referred to in the Act of 27 July 1993 may therefore simply apply for low-cost housing in the same network as all other residents of Luxembourg, whether Luxemburgers or aliens, if their situation is otherwise legal.

3. Justice

(a) Penitentiaries

90. Certain provisions of the regulations of the Grand Duchy of 24 March 1989 on the internal administration and regime of penitentiary establishments are designed to guarantee equality of treatment for non-national and national prisoners (art. 331), ensure respect for human dignity and prohibit any discrimination among prisoners.

91. Article 16 thus provides that:

> "With regard to all persons under its responsibility in whatever capacity, the administration shall ensure respect for the inherent dignity of the human person and take all measures to facilitate their reintegration into society in the context of the minimum rules for the treatment of prisoners."

92. Article 178 provides that:

"Each prisoner shall be subject to the rules that apply uniformly to prisoners in the category to which he belongs.

According to their merits and abilities, convicted persons have an equal interest in benefiting from the advantages that the prison regime may offer and from its progressiveness.

There shall be no difference of treatment based on prejudices involving race, colour, sex, language, religion, political or any other opinion, national or social origin, wealth, birth or any other situation.

The religious beliefs and moral teachings of the group to which the prisoner belongs shall be respected."

93. Article 235 provides that:

"Foreign prisoners may communicate freely without the presence of a warder in the individual visiting room during opening hours with their country's diplomatic and consular agents, even when they have been punished by deprivation of the right to receive visits, unless it is the examining magistrate who has prohibited such communication.

Prisoners who are nationals of a State which has no diplomatic or consular representative in the country and prisoners who are political refugees may receive the visit in the same conditions of a representative of any other national or international authority whose task is to protect them."

(b) Judicial assistance

94. Article 2 of the Act of 18 August 1995 on judicial assistance provides that "natural persons with inadequate resources are entitled to judicial assistance to defend their interests in the Grand Duchy of Luxembourg". This provision applies to Luxembourg nationals, alien nationals permitted to settle in the country, nationals of a member State of the European Union and alien nationals who, as a result of an international treaty, have the same status as Luxembourg nationals in respect of judicial assistance. All other alien nationals with inadequate resources are equally concerned by this provision, which also covers procedures involving the right of asylum, access to the territory, residence, establishment and expulsion.

95. Under article 189 of the Judicial Organization Act, a reception and legal information service has been set up in the Government Procurator-General's Department, which is responsible for providing private individuals, whatever their nationality, with general information on the scope of their rights and on ways and means of safeguarding them.

(c) Judicial organization

96. Aliens who cannot express themselves in one of the official languages of the country (German, French, Luxembourg) will be assisted by a sworn interpreter during court hearings, particularly when they have to appear as witnesses or make personal statements as parties to the proceedings or as defendants.

4. Basic and continuing police training

97. An important part of action to combat racism and xenophobia is the training of the police force for the task. Appropriate basic and continuing training should make members of the police better able to identify offences and more successful in managing or avoiding inter-community tension.

98. At the new Police and Gendarmerie College (EPG), great importance is attached to psychological training and making police and gendarme trainees aware of the human rights issue. Such trainees do not attend only theory classes. The EPG authorities also organize practical courses in which trainees attend outside lectures and go out into the field. Starting in September 1994, lectures on refugees have been held, together with discussions with ASTI (a well-established association that provides support for immigrant workers). An evening with dinner, singing and discussions with immigrants was also part of the programme. The practical course thus involves an interactive approach that should accustom trainees to systematically try to establish a dialogue with immigrants in the course of their duties. This event has become an important component of the training of new members of the police force.

99. The continuing training of the police includes exams with a view to promotion, as well as courses on anti-xenophobia legislation and contact with aliens.

100. Lastly, service notes have drawn the attention of the police to the fact that it is an offence to wear, display or sell Nazi insignia.

D. Systematic efforts to encourage understanding by the general public of refugees, asylum seekers and cultural diversity

101. The war in the former Yugoslavia had a major impact on Luxembourg, which officially welcomed over 2,000 refugees on humanitarian grounds within a few months in 1992. The media were very quick to publish reports on the experiences of these persons, on the conditions in which they were received and lodged and on their future prospects. The media played a positive role in this regard. Understanding of and objective information on political and war refugees predominated. Both the written press and the audiovisual media brought out articles and broadcasts on minority religions, old and new refugees and the various immigrant communities.

102. It should also be noted that, as a result of the liberalization of the air waves, radio channels are competing with each other to attract foreign listeners in Luxembourg. Broadcasting information in the mother tongue of the various alien communities in Luxembourg is part of the terms of reference of the new radio stations that have chosen these communities as their audience.

103. In autumn 1992, the Government allocated 2.5 million Luxembourg francs to LICRA-Luxembourg (International League against Racism and Anti-Semitism), an organization placed under the patronage of HRH the Heir to the Grand Duke, who earmarked the funds as part of a broad advertising campaign against racism and xenophobia. Similar campaigns were organized in 1995 in connection with the European Youth Campaign against Racism, Anti-Semitism, Xenophobia and Intolerance launched by the Council of Europe and various organizations for the support of aliens. Some of the posters calling for tolerance and vigilance against racism were distributed in nearly all parts of the country.

104. A major event in public life in Luxembourg is the Immigration Festival, which is held every year and brings together aliens' associations, political parties, humanitarian and anti-racist associations, the Housing Fund and the Aliens' Board for non-stop discussion and debate in a festive atmosphere. Several tens of thousands of people come to the festival, whose opening is particularly significant. Each year, the Luxembourg authorities gather on the podium to hear the CLAE (Liaison Committee for Aliens' Associations) representative criticize aspects of the policy towards aliens and state the grievances of CLAE, which represents aliens' organizations. In the medium-term and long-term, these grievances, which are repeated every year, are always answered. Over the years, the Immigration Festival has become a meeting place and a vital forum for dialogue in public and inter-community life in Luxembourg.

105. The end-of-year statements by HRH the Grand Duke and the Prime Minister always contain a section on aliens living in Luxembourg and a section in French addressed to them in particular.

IV. CONCLUSIONS

106. In its concluding observations following its consideration of the sixth, seventh and eighth periodic reports, the Committee on the Elimination of Racial Discrimination made some suggestions and recommendations to Luxembourg. It requested additional information on the breakdown of the population, particularly with regard to persons who are not nationals of the European Union. Luxembourg is in a position to provide it with further statistics relating to the eighth periodic report. It cannot, however, include more detailed demographic and economic data to accompany these figures and that is why the report deals at greater length with relations between Luxemburgers and aliens.

107. The Committee also wanted the next report to contain further information on the measures taken to implement all the provisions of article 4 of the Convention, particularly with regard to declaring illegal and prohibiting organizations that promote and encourage racial discrimination. The chapter of the report on existing legislation and legislation that is being amended should satisfy the Committee, particularly in respect of its concern that racist groups should be prohibited. As stressed, the Penal Code makes it possible to convict all members of such an organization and the Associations Act allows it to be disbanded after conviction.

108. The Committee requested further clarification on the implementation of article 5 of the Convention with respect to persons who are not nationals of

the European Union. The sections on legislation in chapter II, particularly on trades association elections and legislation on associations show that considerable progress has been made.

109. The additional information requested on article 6 of the Convention is given in chapter I.D. and E. of the report and that requested on article 7 in chapter III.C.1 (c) and C.4.

110. With respect to article 14 of the Convention, the Luxembourg Government adopted the following draft declaration at its meeting on 28 June 1996 and transmitted it to the United Nations Secretariat on 8 July 1996:

> "Pursuant to article 14, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, Luxembourg declares that it recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by the State of Luxembourg of any of the rights set forth in this Convention.
>
> Pursuant to article 14, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, the ad hoc Standing Committee against discrimination set up in May 1996 under article 24 of the Act of 27 July 1993 on the integration of aliens shall be competent to receive and consider petitions from individuals and groups of individuals within Luxembourg jurisdiction who claim to be victims of a violation of the rights set forth in the Convention on the Elimination of All Forms of Racial Discrimination."